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## *Senate* **BANKING REFORM ACT 2001**

Mr. CARPER. Mr. President, I thank Senator Reid. As we come to a conclusion on this bill, I just ask a couple of rhetorical questions I want us to consider. One of those is, do we believe as a people--not just as a Senate but as a people--that those in our country who incur substantial debt, in many cases through no fault of their own, should be able to gain access to help, to the forgiveness that can be found in a bankruptcy court? I think most of us would say, yes, they ought to have that right.

If we ask the second question: If someone filing for bankruptcy has the ability to repay a portion of their debts, should we expect that of them? I think most of us in this Chamber and across the country would agree, if they have the ability to repay a portion of their debts, they ought to do that.

Those are really the easy questions. The harder question in this debate is how do you determine who has the ability to repay a portion of their debts? In some cases, we give to a bankruptcy judge the discretion to make those decisions. In the legislation before us today, that we will vote on in a short while for final passage, we go a step beyond that. It is a good step.

What we do is provide, in essence, a safe harbor for those who really do not have a whole lot of money in the first place, so they can gain access to file under chapter 7 and not have to go through an extended process of demonstrating a need or lack of means.

The way it works is pretty simple. I will discuss it again. I want to reiterate it.

Those families whose income is below 100 percent of family median income--that is about \$46,000 in Delaware for a family of four; in Alabama it might be \$33,000; in Connecticut it might be \$50,000--have a safe harbor. They can go right to chapter 7 and file. That is pretty much the ball game.

For those whose income is between 100 percent of median income and 150 percent of median income, they have the option to get an expedited review, and in all likelihood will go ahead and file under chapter 7 as well.

For those people who have extenuating circumstances, and they don't meet either the test of safe harbor, the test of 100 percent or 150 percent of median family income, or they have extra medical expenses, those can be taken into account. If they have extra expenses for educational needs, those can become extenuating circumstances. For people who have seen a marriage end or for people who have lost their jobs, those can be extenuating circumstances and be accounted for by a bankruptcy judge who is given discretion to decide whether or not a person can then go ahead and file under chapter 7.

There is another very important change in the bill. I would like to share a letter I received from the child support enforcement agency in my State. As in other States, Delaware has a child support enforcement agency to make sure parents meet their obligations to their children for whom they do not have custody. In my State, our child support enforcement agency endorsed this legislation.

Frankly, that has been the case in virtually every State across America. The reason they do it is simple. This legislation makes it more likely that people who have an obligation to the children for whom they don't have custody will meet their obligations. Similarly, people who have an obligation to their spouse or former spouse for alimony will meet that obligation.

Under current law, once satisfied in bankruptcy, there are secured creditors, and there is money left over. When it comes to unsecured creditors, children and former spouses are near the end of the line. This bill, children, alimony payments, and child support payments move not to the end of the line under the nonsecured creditors but to the front of the line. That is an important change of which we need to be mindful.

I know not everybody agrees with what we have done. There is some disagreement as well.

We had debate on an amendment that said to those people who might try to take their assets and go to a State where there is

no limit on the amount of money they can put into an estate, a home, or residence to protect it from bankruptcy--we have attempted to make a real change there--to the extent they would have done it, it would have had to have been at least 2 years before bankruptcy, and it is capped at \$150,000.

I know that causes heartburn for some people. But it also goes a long way in protecting the abuses that occasionally occur when people do just that.

I thank Senator Hatch and Senator Sessions. I express my thanks to those on our side--especially to Senator Biden and Senator Torricelli, and others—who have worked real hard to get us to a compromise which I think is fairer to creditors and certainly fairer to those who incur debt than is the current case.

I think it significantly increases the ability for those who have the capability of paying their debts to do so while better ensuring that those who do not will not be punished.